

**CALENDAR ITEM
C22**

A 1
S 1

04/05/16
PRC 7746.1
C. Singleton

**TERMINATION OF A RECREATIONAL PIER LEASE AND
ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE**

LESSEE:

William G. Robinson and Donald A. Wells, Jr., As Trustees of The 1991 Tahoe Irrevocable Trust, Dated July 24, 1991; Donald A. Wells, Jr.; Kathleen Wells LaLonde or Her Successor(S), Trustee of the Kathleen W. LaLonde 2006 Revocable Trust Agreement Dated 11-16-2006, as Amended; and Debbie Baker

APPLICANT:

Wendy J. Warren, Trustee of the Wendy J. Warren Revocable Trust

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 48 Moana Circle, near Tahoma, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and two mooring buoys.

LEASE TERM:

10 years, beginning August 27, 2015.

CONSIDERATION:

\$1,246 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

If Lessee does not have valid Tahoe Regional Planning Agency (TRPA) buoy permits, Lessee is required to obtain such authorization for the mooring buoys within two years after the adoption of a Final Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. If Lessee is unable to obtain such authorization within the time limit, they must remove the buoys.

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Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.

STAFF ANALYSIS AND RECOMMENDATION:

Statutory Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California Code of Regulations, Title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

The subject facilities are for the docking and mooring of boats. Recreational boating is a water-dependent use that is generally consistent with the common law public trust doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of public trust lands (Pub. Resources Code, § 6503.5).

The subject facilities have existed for many years at this location. The pier is built on pilings, meaning the public may navigate next to, and at certain water levels, under the pier. This construction also permits lateral access across the beach area that is subject to the public trust easement held by the State. The proposed lease will allow the public to walk or otherwise use the beach and shore area below high water for uses consistent with the public trust easement. The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for public trust consistent uses. Upon termination of the lease, the Lessee may be required to remove all improvements from State land.

The proposed lease requires the Lessee to insure the lease premises and indemnify the state for any liability incurred as a result of the Lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the use of public land. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law public trust doctrine, will not substantially interfere with public trust needs at this location, at this time, and for the foreseeable term of the proposed lease, and in the best interests of the State.

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OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On October 22, 2009, the Commission authorized a Recreational Pier Lease to William G. Robinson and Donald A. Wells, Jr., As Trustees of The 1991 Tahoe Irrevocable Trust, Dated July 24, 1991; Donald A. Wells, Jr.; Kathleen Wells LaLonde or Her Successor(S), Trustee of the Kathleen W. LaLonde 2006 Revocable Trust Agreement Dated 11-16-2006, as Amended; and Debbie Baker. This lease will expire on March 7, 2019. On August 27, 2015, ownership of the upland was deeded to Wendy J. Warren, Trustee of the Wendy J. Warren Revocable Trust. The Applicant is now applying for a General Lease - Recreational Use.
3. Staff recommends terminating the lease because the Lessee abandoned the lease by transferring the property and facility without executing a quitclaim deed.
4. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and costal waterways.
5. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378, subdivision (b)(5).

6. The staff recommends that the Commission find that issuance of the lease is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon

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the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that issuance of the lease is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the public trust needs and values at this location, is consistent with the common law public trust doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

1. Authorize termination, effective August 26, 2015, of Lease No. PRC 7746.9, a Recreational Pier Lease, issued to William G. Robinson and Donald A. Wells, Jr., As Trustees of The 1991 Tahoe Irrevocable Trust, Dated July 24, 1991; Donald A. Wells, Jr.; Kathleen Wells LaLonde or Her Successor(S), Trustee of the Kathleen W. LaLonde 2006 Revocable Trust Agreement Dated 11-16-2006, as Amended; and Debbie Baker.
2. Authorize issuance of a General Lease – Recreational Use to Wendy J. Warren, Trustee of the Wendy J. Warren Revocable Trust, beginning August 27, 2015, for a term of 10 years, for the continued use and maintenance of an existing pier and two mooring buoys, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; annual rent

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in the amount of \$1,246 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 7746.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 7, Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved July 29, 1880, County of Placer, State of California and more particularly described as follows:

PARCEL 1 – PIER & CATWALK

All those lands underlying an existing pier and a catwalk lying adjacent to those parcels as described in that Grant Deed recorded October 27, 2015 as Document Number 2015-0075611 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion(s) lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

PARCELS 2,3 – BUOYS (2)

Two (2) circular parcels being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to said parcels.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared February 4, 2016 by the California State Lands Commission Boundary Unit.



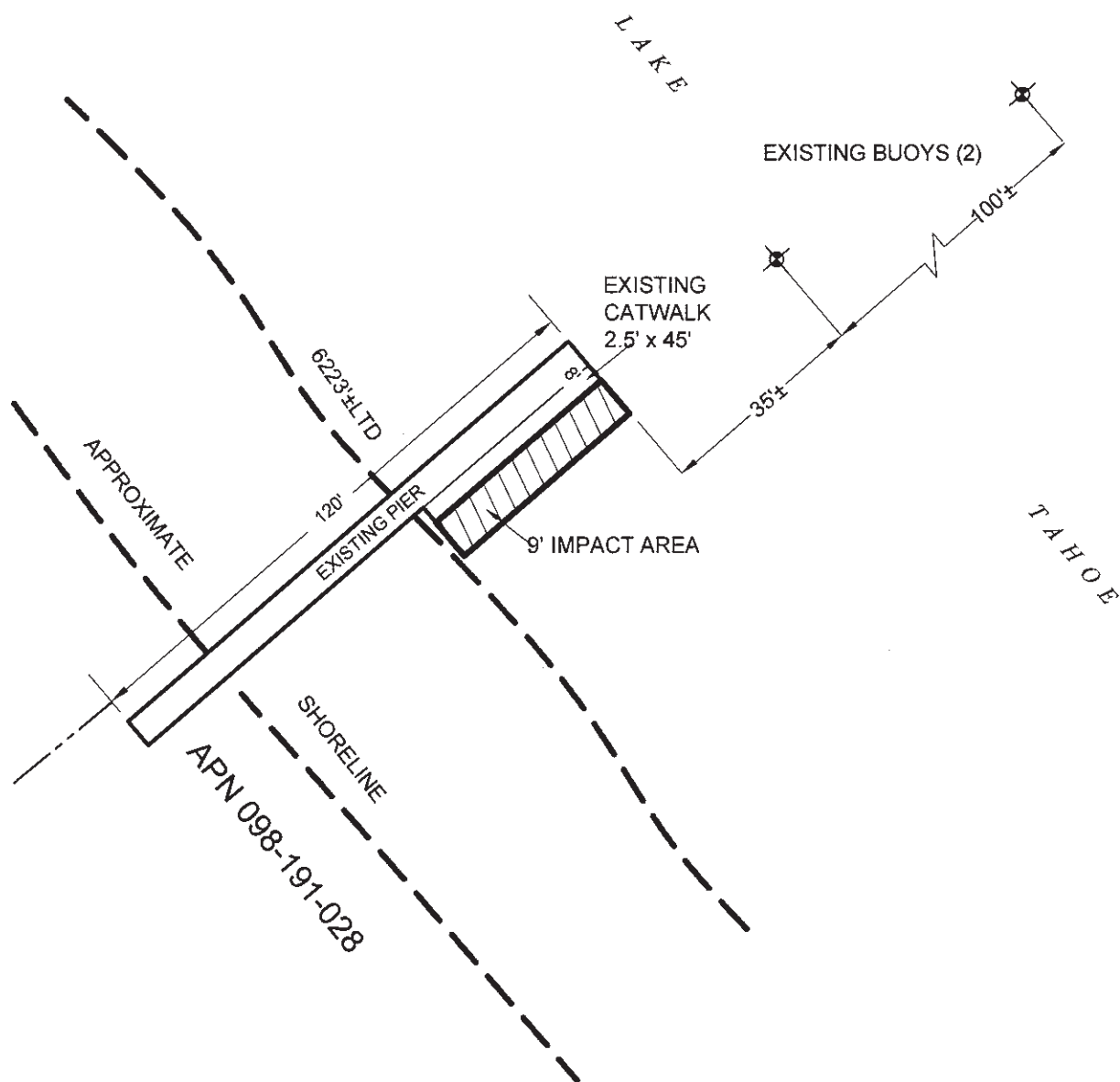


EXHIBIT A

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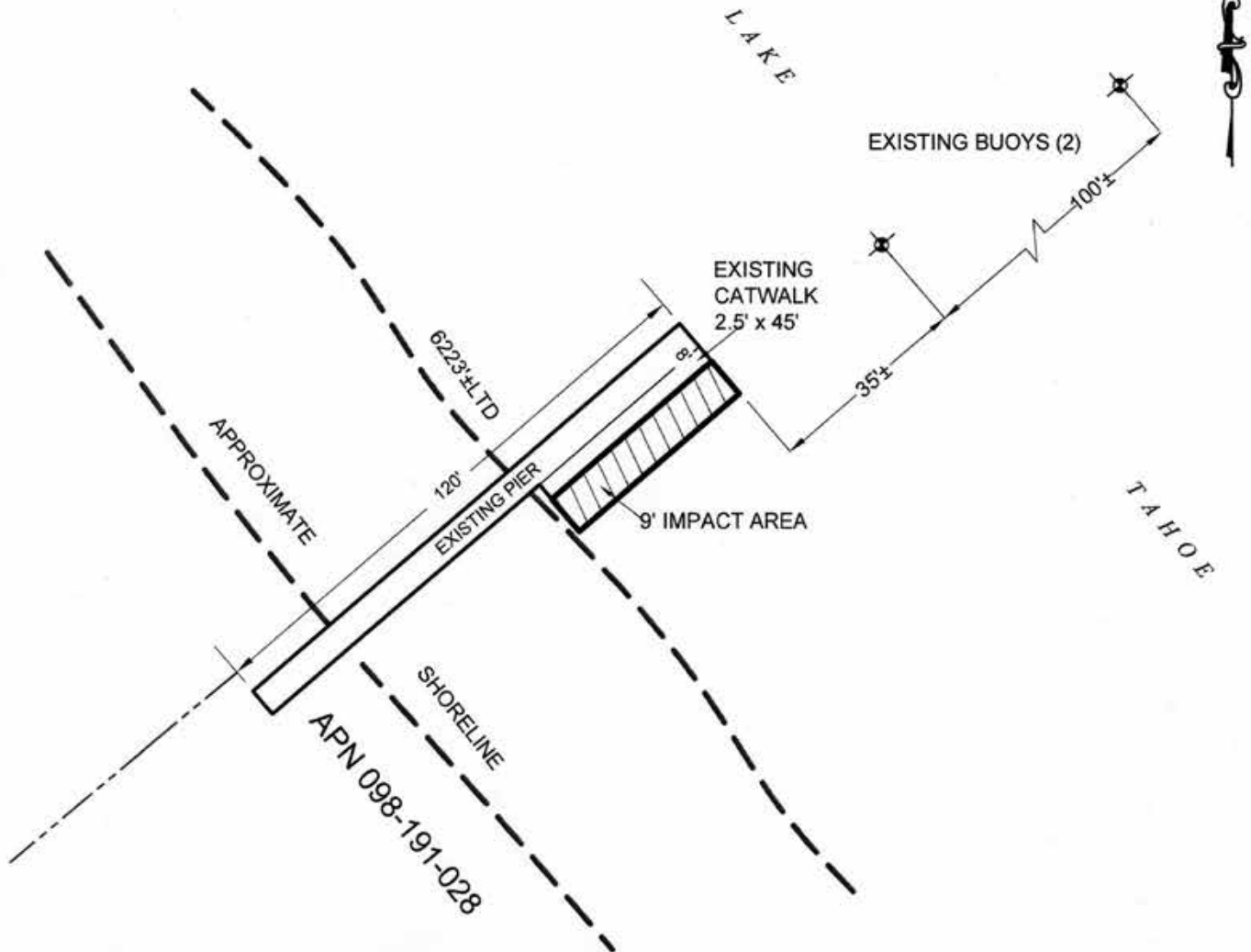
LAND DESCRIPTION PLAT
PRC 7746.1, WARREN REVOCABLE TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

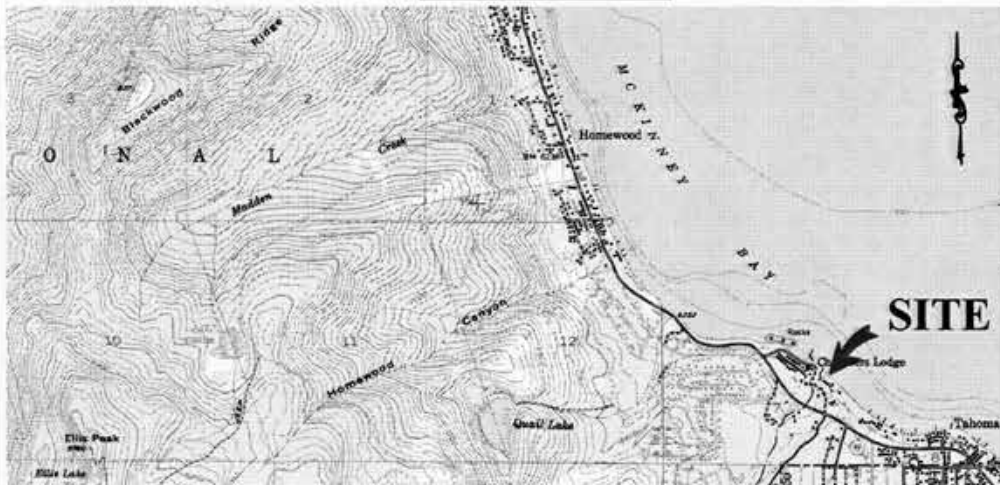
SITE



48 MOANA CIRCLE, NEAR TAHOMA

NO SCALE

LOCATION



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

PRC 7746.1
WARREN REVOCABLE TRUST
APN 098-191-028
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY



MJ 2/04/2016